

## Message Text

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ACTION EB-11

INFO OCT-01 ISO-00 FRB-03 OMB-01 TAR-02 SP-03 SWF-02

AGR-20 AID-20 CIAE-00 COME-00 INR-11 IO-14 LAB-06

NSAE-00 OIC-04 RSC-01 SIL-01 STR-08 TRSE-00 CIEP-03

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INRE-00 L-03 SS-20 NSC-07 DRC-01 /220 W

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FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 0000

INFO USMISSION USUN NEW YORK

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AMEMBASSY NEW DELHI IMMEDIATE

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TREASURY PASS BRADFIELD

E.O. 11652: N/A

TAGS: UNCTAD, EGEN

SUBJECT: UNCTAD TDB XIV: CHARTER OF ECONOMIC RIGHTS - DUTIES

1. MEETINGS OF DRAFTING COMMITTEE ON PARA 2 CONCLUDED TODAY. TEXT OF ITS REPORT FOLLOWS SEPTTEL. WE HAVE THESE COMMENTS.

2. INITIAL CAVEAT ABOUT ACCEPTABILITY OF ANY PROVISION BEING CONDITIONED ON ACCEPTABILITY OF WHOLE OF PARA 2 INSERTED AT US REQUEST TO UNDERSCORE THAT USG ACCEPTANCE EVEN OF SUBPARA 1 OF PARA 2 IS SO CONDITIONED.

3. GROUP B REPRESENTATIVES REITERATED UNACCEPTABILITY

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OF "AND CONTROL" IN SUBPARA 2(A).

4. GROUP OF 77 REAFFIRMED REJECTION OF 2(B) OR ANY PROVISION OF ITS SUBSTANCE. USG AND UKREPS REITERATED THAT INCLUSION OF SUCH A PROVISION, AS IT STANDS, OR POSSIBLY ADDED ON TO PARA 2(A), IS VITAL TO THEIR ACCEPTANCE OF THE WHOLE PARA. DEADLOCK ON THIS KEY POINT IS TOTAL.

5. GROUP B REPRESENTATIVES REQUIRED BRACKETING OF SUBPARA 2(C), ON EXPLICIT GROUND THAT IT IS NOT PREPARED TO CONCEDE BRILLANTES' FORMULA ON MNCS UNLESS 77 WILL ACCEPT IT OR ITS EQUIVALENT ON SUBPARAS 2(B) AND 2(D) AND ALSO AGREE TO APPROPRIATE COVERAGE BY "INTERNATIONAL OBLIGATIONS". WE HAVE ALSO RESERVED THE RIGHT TO MORE AMENDMENTS TO 2(C).

6. THE ALTERNATIVE TEXTS ON NATIONALIZATION EMERGED AFTER CHADHA PROPOSED COMPROMISE OF DELETING "IN ACCORDANCE WITH DOMESTIC LAW" IF GROUP B WOULD ACCEPT "IN WHICH CASE THE QUESTION OF COMPENSATION SHALL BE DECIDED UPON BY THE NATIONALIZING STATE IN THE LIGHT OF ALL RELEVANT CIRCUMSTANCES". USREP REJECTED THIS FORMULA ON GROUNDS OF ITS FAILURE TO SPECIFY THAT A STATE MAY NATIONALIZE PROVIDED THAT IT PAYS JUST COMPENSATION--NOT WHATEVER, IF ANY, COMPENSATION IT CHOOSES TO PAY IN ANSWERING THE QUESTION OF WHETHER COMPENSATION SHALL BE PAID.

7. SUBPARA 3 WAS FOCUS OF SHARP EXCHANGE BETWEEN CHADHA AND SCHWEBEL, PROVOKED BY CHADHA'S SAYING INDIA COULD ONLY ACCEPT FORMULA PROPOSED SEPT. 5 BY WALKER (JAMAICA), APPARENTLY ON BEHALF OF GROUP OF 77, IF IT WERE AMENDED IN TWO RESPECTS: (A) TO CHANGE "FULFILL IN GOOD FAITH THEIR INTERNATIONAL OBLIGATIONS" TO "HAVE DUE REGARD FOR THEIR INTERNATIONAL OBLIGATIONS" AND (B) TO ADD: "NO STATE WHOSE NATIONALS INVEST IN A FOREIGN COUNTRY SHALL DEMAND PRIVILEGED TREATMENT FOR SUCH INVESTORS". CHADHA LET THESE PROPOSALS LAPSE IN THIS SUBPARA IN FACE OF VIGOR OF USREP'S COUNTERATTACK AND EL-ERIAN'S (EGYPT) CHIDING, LIMITED OFFICIAL USE

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BUT BE LATER REINTRODUCED (B), WHICH APPEARS IN THE REPORT, DISAGREED. DALE

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
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**Disposition Approved on Date:**  
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